IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)

FRIDAY, THE SEVENTH DAY OF DECEMBER
TWO THOUSAND AND SEVEN

PRESENT

THE HON'BLE SRI JUSTICE C.Y.SOMAYAJULU

WRIT PETITION No.22449 OF 2000

Between:

A.P.State Road Transport Corporation,
Mushirabad, Hyderabad, rep. by its
Managing Director, and another.

.... PETITIONERS

AND

D.Mallikarjuna and another

....RESPONDENTS

THE HON'BLE SRI JUSTICE
C.Y.SOMAYAJULU

WRIT PETITION NO.22449 OF 2000

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Alleging that he worked as Casual Workman (Man-Mazdoor) in the petitioner Corporation from 06.08.1986 to 02.04.1991 continuously, but was discharged orally from duties without any termination order on 02.04.1991 first respondent raised an Industrial Dispute and examined himself and marked 12 documents on his behalf. Petitioners who disputed the case of the first respondent, did not adduce any evidence on their behalf. After considering the evidence on record, the Tribunal observed that the petitioners who took a plea that the first respondent was engaged by a contractor but not by them, failed to adduce evidence in support of their contention and after taking into consideration the documents filed by the first respondent and the fact that juniors to the first respondent were reinstated, directed the petitioners to appoint the first respondent as a fresh candidate without back wages. Questioning the said order, petitioners filed this writ petition.

The contention of the learned counsel for the first petitioner Corporation is that since the first respondent was not employed by the first petitioner Corporation, but was employed by a Contractor,

and since the first respondent on whom the burden of proof to show that he was employed by the first respondent failed to adduce reliable evidence to show that he was employed by the first respondent and as all the documents produced by the first respondent are daily passes which will be issued to the workmen employed by the Corporation and as the first respondent would issue monthly passes for its employees, the 2nd respondent Tribunal was in error in passing the order impugned. The contention of the learned counsel for the first respondent is that though there is prima facie evidence to show that the petitioner worked as an employee of the Corporation, since the petitioners failed to adduce any evidence in rebuttal thereof, the Tribunal rightly drew an adverse inference against petitioners, and so, the well-considered award of the Tribunal needs no interference.

As rightly observed by the Tribunal if the APSRTC did not employ the first respondent, and if he was employed by the Contractor, it should have adduced evidence in support of that plea.

Learned Standing Counsel for APSRTC made a request to remand the case to the Tribunal and give an opportunity to the APSRTC to adduce evidence, I find no ground to remand the case because the dispute was raised in the year 1994 and the reasons for the failure of the APSRTC in examining witnesses before the Tribunal are not explained.

In the circumstances of the case and in view of the well reasoned order of the Tribunal, I find no ground to remand the case to the Tribunal for adducing evidence on behalf of the APSRTC.

As, the well considered award of the Tribunal needs no interference, the writ petition is dismissed. No costs.

JUSTICE C.Y.SOMAYAJULU

7th DECEMBER, 2007

PGS

THE HONOURABLE SRI JUSTICE
C.Y.SOMAYAJULU

W.P.NO.2249 OF 2000

7TH DECEMBER, 2007